

STATE OF MICHIGAN
COURT OF APPEALS

JAMES HALL,

Plaintiff-Appellant,

v

WAYNE COUNTY DEPARTMENT OF PUBLIC
SERVICES, LORENZO BLOUNT, E.
GLANTON, EDMOND LEE HAYES, AFSCME
COUNCIL 29, and AFSCME LOCAL 101,

Defendants-Appellees.

UNPUBLISHED

May 17, 2005

No. 252162

Wayne Circuit Court

LC No. 03-329761-CZ

Before: Murphy, P.J., and White and Smolenski, JJ.

MEMORANDUM.

Plaintiff appeals as of right the trial court's orders granting defendants' motions for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff's employment with the County was terminated on May 2, 2002. The union filed a grievance, which proceeded to arbitration. In an award issued on February 25, 2003, the arbitrator upheld plaintiff's termination. Plaintiff filed this action on September 8, 2003. The trial court ruled in part that plaintiff's complaint was not timely filed, and dismissed the case.

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000).

A wrongful discharge action against an employer predicated on violation of a collective bargaining agreement is subject to a six-month limitations period. *Romero v Paragon Steel Div, Portec, Inc (On Remand)*, 129 Mich App 566, 572-573; 341 NW2d 546 (1983). Similarly, a claim against a union for violation of the duty of fair representation is subject to a six-month limitations period. *Ray v Org of Sch Admin'rs & Supervisors, Local 28*, 141 Mich App 708, 710-711; 367 NW2d 438 (1985).

Assuming that plaintiff's cause of action did not accrue until March 13, 2003, when he claims to have first learned of the arbitration award, see *Galindo v Stooddy Co*, 793 F2d 1502, 1509 (CA 9, 1986); *Dowty v Pioneer Rural Elec Co-op, Inc*, 770 F2d 52, 56-57 (CA 6, 1985), it was not enough that plaintiff simply file his complaint by September 13, 2003. The filing of a

complaint alone is insufficient to toll the running of the statute of limitations. The statute of limitations is tolled only when the complaint is filed and the requirements of MCL 600.5856 are met. *Gladych v New Family Homes, Inc*, 468 Mich 594, 595, 605; 664 NW2d 705 (2003).¹

It appearing that plaintiff undertook service of process himself instead of through an officer, that defendants were served with process on or after September 15, 2003, and that defendants did not submit to the court's jurisdiction before being served with process, the limitations period continued to run after the complaint was filed, and then expired within a week. The trial court did not err in finding that plaintiff's complaint was barred by the statute of limitations.

Affirmed.

/s/ William B. Murphy
/s/ Helene N. White
/s/ Michael R. Smolenski

¹ *Gladych* was abrogated by 2004 PA 87, which amended MCL 600.5856, but that amendment only applies to cases filed on or after April 22, 2004.